

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 688 Session of
2003

INTRODUCED BY STOUT, THOMPSON, ROBBINS AND WOZNIAK, MAY 2, 2003

REFERRED TO LOCAL GOVERNMENT, MAY 2, 2003

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
 2 as amended, "An act to empower cities of the second class A,
 3 and third class, boroughs, incorporated towns, townships of
 4 the first and second classes including those within a county
 5 of the second class and counties of the second through eighth
 6 classes, individually or jointly, to plan their development
 7 and to govern the same by zoning, subdivision and land
 8 development ordinances, planned residential development and
 9 other ordinances, by official maps, by the reservation of
 10 certain land for future public purpose and by the acquisition
 11 of such land; to promote the conservation of energy through
 12 the use of planning practices and to promote the effective
 13 utilization of renewable energy sources; providing for the
 14 establishment of planning commissions, planning departments,
 15 planning committees and zoning hearing boards, authorizing
 16 them to charge fees, make inspections and hold public
 17 hearings; providing for mediation; providing for transferable
 18 development rights; providing for appropriations, appeals to
 19 courts and penalties for violations; and repealing acts and
 20 parts of acts," further providing for planning commission
 21 membership and business, for planning agency powers and
 22 duties, for official municipality maps, for county planning
 23 agency jurisdiction, for subdivision and land development
 24 ordinances, for plat approval and recording, for municipal
 25 curative amendments, for zoning appeals, for jurisdiction of
 26 county planning agencies, for standards and conditions for
 27 planned residential development and for zoning hearing board
 28 membership, organization and jurisdiction.

29 The General Assembly of the Commonwealth of Pennsylvania
 30 hereby enacts as follows:

31 Section 1. The title of the act of July 31, 1968 (P.L.805,

1 No.247), known as the Pennsylvania Municipalities Planning Code,
2 reenacted and amended December 21, 1988 (P.L.1329, No.170) and
3 amended December 14, 1992 (P.L.815, No.131), is amended to read:

4 AN ACT

5 To empower cities of the second class A, and third class,
6 boroughs, incorporated towns, townships of the first and
7 second classes, including those within a county of the second
8 class, and counties of the second through eighth classes,
9 individually or jointly, to plan their development and to
10 govern the same by zoning, subdivision and land development
11 ordinances, planned residential development and other
12 ordinances, by official maps, by the reservation of certain
13 land for future public purpose and by the acquisition of such
14 land; to promote the conservation of energy through the use
15 of planning practices and to promote the effective
16 utilization of renewable energy sources; providing for the
17 establishment of planning commissions, planning departments,
18 planning committees and zoning hearing boards, authorizing
19 them to charge fees, make inspections and hold public
20 hearings; providing for mediation; providing for transferable
21 development rights; providing for appropriations, appeals to
22 courts and penalties for violations; and repealing acts and
23 parts of acts.

24 Section 2. Sections 203(b), 207, 209.1, 405 and 502(b) and
25 (c) of the act are amended to read:

26 Section 203. Appointment, Term and Vacancy.--* * *

27 (b) The term of each of the members of the commission shall
28 be for four years[, or until his successor is appointed and
29 qualified], except that the terms of the members first appointed
30 pursuant to this act shall be so fixed that on commissions of

1 eight members or less no more than two shall be reappointed or
2 replaced during any future calendar year, and on commissions of
3 nine members no more than three shall be so reappointed or
4 replaced.

5 * * *

6 Section 207. Conduct of Business; Quorum.--The commission
7 shall elect its own chairman and vice-chairman and create and
8 fill such other offices as it may determine. Officers shall
9 serve annual terms and may succeed themselves. The commission
10 may make and alter by laws and rules and regulations to govern
11 its procedures consistent with the ordinances of the
12 municipality and the laws of the Commonwealth. The commission
13 shall keep a full record of its business and shall annually make
14 a written report by March 1 of each year of its activities to
15 the governing body. Interim reports may be made as often as may
16 be necessary, or as requested by the governing body. A majority
17 of the members of the commission presently serving shall
18 constitute a quorum.

19 Section 209.1. Powers and Duties of Planning Agency.--(a)
20 The planning agency shall at the request of the governing body
21 have the power and shall be required to:

22 (1) Prepare the comprehensive plan for the development
23 of the municipality as set forth in this act, and present it
24 for the consideration of the governing body.

25 (2) Maintain and keep on file records of its action. All
26 records and files of the planning agency shall be in the
27 possession of the governing body.

28 (b) The planning agency at the request of the governing body
29 [may] shall:

30 (1) Make recommendations to the governing body

1 concerning the adoption or amendment of an official map.

2 (2) Prepare and present to the governing body of the
3 municipality a zoning ordinance, and make recommendations to
4 the governing body on proposed amendments to it as set forth
5 in this act.

6 (3) Prepare, recommend and administer subdivision and
7 land development and planned residential development
8 regulations, as set forth in this act.

9 (4) Prepare and present to the governing body of the
10 municipality a building code and a housing code and make
11 recommendations concerning proposed amendments thereto.

12 (5) Do such other acts or make such studies as may be
13 necessary to fulfill the duties and obligations imposed by
14 this act.

15 (6) Prepare and present to the governing body of the
16 municipality an environmental study.

17 (7) Submit to the governing body of a municipality a
18 recommended capital improvements program.

19 (7.1) Prepare and present to the governing body of the
20 municipality a water survey, which shall be consistent with
21 the State Water Plan and any applicable water resources plan
22 adopted by a river basin commission. The water survey shall
23 be conducted in consultation with any public water supplier
24 in the area to be surveyed.

25 (8) Promote public interest in, and understanding of,
26 the comprehensive plan and planning.

27 (9) Make recommendations to governmental, civic and
28 private agencies and individuals as to the effectiveness of
29 the proposals of such agencies and individuals.

30 (10) Hold public hearings and meetings.

1 (10.1) Present testimony before any board.

2 (11) Require from other departments and agencies of the
3 municipality such available information as relates to the
4 work of the planning agency.

5 (12) In the performance of its functions, enter upon any
6 land to make examinations and surveys with the consent of the
7 owner.

8 (13) Prepare and present to the governing body of the
9 municipality a study regarding the feasibility and
10 practicability of using renewable energy sources in specific
11 areas within the municipality.

12 (14) Review the zoning ordinance, subdivision and land
13 development ordinance, official map, provisions for planned
14 residential development, and such other ordinances and
15 regulations governing the development of land no less
16 frequently than it reviews the comprehensive plan.

17 Section 405. Buildings in Mapped Streets, Watercourses or
18 Other Public Grounds.--For the purpose of preserving the
19 integrity of the official map of the municipality, no permit
20 shall be issued for any building within the lines of any street,
21 watercourse or public ground shown or laid out on the official
22 map. No person shall recover any damages for the taking for
23 public use of any building or improvements constructed within
24 the lines of any street, watercourse or public ground after the
25 same shall have been included in the official map, and any such
26 building or improvement shall be removed at the expense of the
27 owner. However, when the property of which the reserved location
28 forms a part, cannot yield a reasonable return to the owner
29 unless a permit shall be granted, the owner may apply to the
30 governing body for the grant of a special encroachment permit to

1 build. Before granting any special encroachment permit
2 authorized in this section, the governing body may submit the
3 application for a special encroachment permit to the local
4 planning agency and allow the planning agency 30 days for review
5 and comment and shall give public notice and hold a public
6 hearing at which all parties in interest shall have an
7 opportunity to be heard. A refusal by the governing body to
8 grant the special encroachment permit applied for may be
9 appealed by the applicant to [the zoning hearing board] the
10 court of common pleas in the same manner, and within the same
11 time limitation, as is provided in Article [IX] X-A.

12 Section 502. Jurisdiction of County Planning Agencies;
13 Adoption by Reference of County Subdivision and Land Development
14 Ordinances.--* * *

15 (b) The enactment of a subdivision and land development
16 ordinance by any municipality, other than a county, whose land
17 is subject to a county subdivision and land development
18 ordinance shall act as a repeal protanto of the county
19 subdivision and land development ordinance within the
20 municipality adopting such ordinance. However, applications for
21 subdivision and land development located within a municipality
22 having adopted a subdivision and land development ordinance as
23 set forth in this article shall be forwarded upon receipt by the
24 municipality to the county planning agency for review and report
25 and for recommendation, together with a fee sufficient to cover
26 the costs of the review, recommendation and report which fee
27 shall be paid by the applicant: Provided, That such
28 municipalities shall not approve such applications until the
29 county recommendation and report [is] are received or until the
30 expiration of 30 days from the date the application was

1 forwarded to the county.

2 (c) Further, any municipality other than a county may adopt
3 by reference the subdivision and land development ordinance of
4 the county, and may by separate ordinance designate the county
5 planning agency, with the county planning agency's concurrence,
6 as its official administrative agency for review, recommendation
7 and approval of plats.

8 Section 3. Section 503(1.1) and (11)(vi) of the act are
9 amended and the section is amended by adding a clause to read:

10 Section 503. Contents of Subdivision and Land Development
11 Ordinance.--The subdivision and land development ordinance may
12 include, but need not be limited to:

13 * * *

14 (1.1) Provisions for the exclusion of certain land
15 development from the definition of land development contained
16 in section 107 only when such land development involves:

17 (i) the conversion of an existing single-family
18 detached [dwelling or], single family semi-detached
19 [dwelling] or single family attached dwelling into not
20 more than three residential units, unless such units are
21 intended to be a condominium;

22 (ii) the addition of an accessory building,
23 including farm buildings, on a lot or lots subordinate to
24 an existing principal building; or

25 (iii) the addition or conversion of buildings or
26 rides within the confines of an enterprise which would be
27 considered an amusement park. For purposes of this
28 subclause, an amusement park is defined as a tract or
29 area used principally as a location for permanent
30 amusement structures or rides. This exclusion shall not

1 apply to newly acquired acreage by an amusement park
2 until initial plans for the expanded area have been
3 approved by proper authorities.

4 (1.2) Provisions defining minor land development and
5 establishing a simplified review procedure applicable to
6 minor land development.

7 * * *

8 (11) Provisions requiring the public dedication of land
9 suitable for the use intended; and, upon agreement with the
10 applicant or developer, the construction of recreational
11 facilities, the payment of fees in lieu thereof, the private
12 reservation of the land, or a combination, for park or
13 recreation purposes as a condition precedent to final plan
14 approval, provided that:

15 * * *

16 (vi) A fee authorized under this subsection shall,
17 upon its receipt by a municipality, be deposited in an
18 interest-bearing account, clearly identifying the
19 specific recreation facilities or land, or both, for park
20 purposes for which the fee was received. Interest earned
21 on such accounts shall become funds of that account.
22 Funds from such accounts shall be expended only in
23 properly allocable portions of the cost incurred to
24 construct or acquire the specific recreation facilities
25 or land, or both, for park purposes for which the funds
26 were collected.

27 * * *

28 Section 4. Sections 508(3) and 509(a) of the act are amended
29 to read:

30 Section 508. Approval of Plats.--All applications for

1 approval of a plat (other than those governed by Article VII),
2 whether preliminary or final, shall be acted upon by the
3 governing body or the planning agency within such time limits as
4 may be fixed in the subdivision and land development ordinance
5 but the governing body or the planning agency shall render its
6 decision and communicate it to the applicant not later than 90
7 days following the date of the regular meeting of the governing
8 body or the planning agency (whichever first reviews the
9 application) next following the date the application is filed,
10 provided that should the said next regular meeting occur more
11 than 30 days following the filing of the application, the said
12 90-day period shall be measured from the 30th day following the
13 day the application has been filed.

14 * * *

15 (3) Failure of the governing body or planning agency to
16 render a decision and communicate it to the applicant within
17 the time and in the manner required herein shall be deemed an
18 approval of the application in terms as presented unless the
19 applicant has agreed in writing to an extension of time or
20 change in the prescribed manner of presentation of
21 communication of the decision, in which case, failure to meet
22 the extended time or change in manner of presentation of
23 communication shall have like effect.

24 * * *

25 Section 509. Completion of Improvements or Guarantee Thereof
26 Prerequisite to Final Plat Approval.--(a) No plat shall be
27 finally approved unless the streets shown on such plat have been
28 improved to a mud-free or otherwise permanently passable
29 condition, or improved as may be required by the subdivision and
30 land development ordinance and any walkways, curbs, gutters,

1 street lights, fire hydrants, shade trees, water mains, sanitary
2 sewers, storm sewers and other improvements as may be required
3 by the subdivision and land development ordinance have been
4 installed in accordance with such ordinance. In lieu of the
5 completion of any improvements required as a condition for the
6 final approval of a plat, [including improvements or fees
7 required pursuant to section 509(i),] the subdivision and land
8 development ordinance shall provide for the deposit with the
9 municipality of financial security in an amount sufficient to
10 cover the costs of such improvements or common amenities
11 including, but not limited to, roads, storm water detention
12 and/or retention basins and other related drainage facilities,
13 recreational facilities, open space improvements, or buffer or
14 screen plantings which may be required.

15 * * *

16 Section 5. Section 513 of the act, amended December 20, 2000
17 (P.L.940, No.127), is amended to read:

18 Section 513. Recording Plats and Deeds.--(a) Upon the
19 approval of a final plat, the developer shall within 90 days of
20 such final approval or 90 days after the date of delivery of an
21 approved plat signed by the governing body or planning agency,
22 if designated by the governing body, following completion of
23 conditions imposed for such approval, whichever is later, record
24 such plat in the office of the recorder of deeds of the county
25 in which the municipality is located. Whenever such plat
26 approval is required by a municipality, the recorder of deeds of
27 the county shall not accept any plat for recording, unless such
28 plat officially notes the approval of the governing body or
29 planning agency, if designated by the governing body, and review
30 by the county planning agency, if one exists.

1 (b) The recording of the plat shall not constitute grounds
2 for assessment increases until such time as lots are sold or
3 improvements are installed on the land included within the
4 subject plat.

5 Section 6. Sections 609.2 introductory paragraph, 615,
6 704(b), 705(f)(5) and (6), 903 and 906(b) of the act are amended
7 to read:

8 Section 609.2. Procedure for Municipal Curative
9 Amendments.--If a municipality determines that its zoning
10 ordinance or any portion thereof is [substantially]
11 substantively invalid, it shall take the following actions:

12 * * *

13 Section 615. Zoning Appeals.--All appeals from [decisions]
14 determinations of the zoning officer shall be taken in the
15 manner set forth in this act.

16 Section 704. Jurisdiction of County Planning Agencies.--* *
17 *

18 (b) The powers of governing bodies of counties to enact,
19 amend and repeal planned residential development provisions
20 shall not supersede any local planned residential development,
21 zoning or subdivision and land development ordinance which is
22 already in effect or subsequently becomes effective in any
23 municipality within such county, provided that a certified copy
24 of such provision is filed with the county planning agency, if
25 one exists. However, all applications for tentative approval of
26 planned residential development of land located within a
27 municipality having adopted planned residential development
28 provisions as set forth in this article shall nevertheless be
29 referred to the county planning agency, if one exists, for study
30 and recommendation, together with a fee sufficient to cover the

1 costs of the review, recommendation and report, which fee shall
2 be paid by the applicant, and such county planning agency shall
3 be required to report to such municipality within 30 days or
4 forfeit the right to review.

5 Section 705. Standards and Conditions for Planned
6 Residential Development.--* * *

7 (f) The standards for a planned residential development
8 established by provisions adopted pursuant to this article may
9 require that the common open space resulting from the
10 application of standards for density, or intensity of land use,
11 shall be set aside for the use and benefit of the residents in
12 such development and may include provisions which shall
13 determine the amount and location of said common open space and
14 secure its improvement and maintenance for common open space
15 use, subject, however, to the following:

16 * * *

17 [(5) The decision of the governing body or its
18 designated agency shall be subject to appeal to court in the
19 same manner, and within the same time limitation, as is
20 provided for zoning appeals by this act.

21 (6)] (5) The cost of such maintenance by the
22 municipality shall be assessed ratably against the properties
23 within the planned residential development that have a right
24 of enjoyment of the common open space, and shall become a
25 lien on said properties. The municipality at the time of
26 entering upon said common open space for the purpose of
27 maintenance shall file a notice of lien in the office of the
28 prothonotary of the county, upon the properties affected by
29 the lien within the planned residential development.

30 * * *

1 Section 903. Membership of Board.--(a) The membership of
2 the board shall, upon the determination of the governing body,
3 consist of either three or five residents of the municipality
4 appointed by resolution by the governing body. The terms of
5 office of a three member board shall be three years and shall be
6 so fixed that the term of office of one member shall expire each
7 year. The terms of office of a five member board shall be five
8 years and shall be so fixed that the term of office of one
9 member of a five member board shall expire each year. If a three
10 member board is changed to a five member board, the members of
11 the existing three member board shall continue in office until
12 their term of office would expire under prior law. The governing
13 body shall appoint two additional members to the board with
14 terms scheduled to expire in accordance with the provisions of
15 this section. The board shall promptly notify the governing body
16 of any vacancies which occur. Appointments to fill vacancies
17 shall be only for the unexpired portion of the term. Members of
18 the board shall hold no other elected or appointed office in the
19 municipality[.] nor shall any member act as an employee of the
20 municipality.

21 (b) The governing body may appoint by resolution at least
22 one but no more than three residents of the municipality to
23 serve as alternate members of the board. The term of office of
24 an alternate member shall be three years. When seated pursuant
25 to the provisions of section 906, an alternate shall be entitled
26 to participate in all proceedings and discussions of the board
27 to the same and full extent as provided by law for board
28 members, including specifically the right to cast a vote as a
29 voting member during the proceedings, and shall have all the
30 powers and duties set forth in this act and as otherwise

1 provided by law. Alternates shall hold no other elected or
2 appointed office in the municipality nor shall any alternate act
3 as an employee of the municipality, including [membership on]
4 service as a member of the planning commission [and] or as a
5 zoning officer. Any alternate may participate in any proceeding
6 or discussion of the board but shall not be entitled to vote as
7 a member of the board nor be compensated pursuant to section 907
8 unless designated as a voting alternate member pursuant to
9 section 906.

10 Section 906. Organization of Board.--* * *

11 (b) If, by reason of absence or disqualification of a
12 member, a quorum is not reached, the chairman of the board shall
13 designate as many alternate members of the board to sit on the
14 board as may be needed to provide a quorum. The chairman also
15 may designate alternate members of the board to replace any
16 absent or disqualified member. Any alternate member of the board
17 shall continue to serve on the board in all proceedings
18 involving the matter or case for which the alternate was
19 initially appointed until the board has made a final
20 [determination of] decision on the matter or case. Designation
21 of an alternate pursuant to this section shall be made on a
22 case-by-case basis in rotation according to declining seniority
23 among all alternates.

24 * * *

25 Section 7. This act shall take effect in 60 days.